

Assembly Bill No. 1849

CHAPTER 766

An act to amend Section 41712 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 21, 1996. Filed
with Secretary of State September 23, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1849, Sher. Air pollution: volatile organic compounds.

Existing law requires the State Air Resources Board to adopt regulations to achieve the maximum feasible reduction in reactive organic compounds emitted by consumer products, if the state board determines that adequate data exists for the state board to adopt the regulations.

This bill would apply those provisions to volatile organic compounds instead of reactive organic compounds and would, instead, require the state board to adopt those regulations if the state board determines that adequate data exist to establish that the regulations are necessary to attain state and federal ambient air quality standards and are commercially and technologically feasible and necessary. The bill would prohibit a regulation from being adopted which requires the elimination of a product form.

The bill would limit the adoption or enforcement of regulations relating to emissions from aerosol adhesives by air pollution control districts and air quality management districts, except as specified, and would require the state board to adopt more stringent limits for those emissions if found to be feasible, as prescribed.

The bill would authorize the sale of a previously manufactured consumer product for 3 years from the effective date of any such state board regulation, under specified conditions.

The people of the State of California do enact as follows:

SECTION 1. Section 41712 of the Health and Safety Code is amended to read:

41712. (a) For purposes of this section, the following terms have the following meaning:

(1) "Consumer product" means a chemically formulated product used by household and institutional consumers, including, but not limited to, detergents; cleaning compounds; polishes; floor finishes; cosmetics; personal care products; home, lawn, and garden products; disinfectants; sanitizers; aerosol paints; and automotive specialty

products; but does not include other paint products, furniture coatings, or architectural coatings.

(2) “Health benefit product” means an antimicrobial product registered with the Environmental Protection Agency.

(3) “Maximum feasible reduction in volatile organic compounds emitted” means at least a 60 percent reduction in the emissions of volatile organic compounds resulting from the use of aerosol paints, calculated with respect to the 1989 baseline year.

(4) “Medical expert” means a physician, including a pediatrician, a microbiologist, or a scientist involved in research related to infectious disease and infection control.

(b) The state board shall adopt regulations to achieve the maximum feasible reduction in volatile organic compounds emitted by consumer products, if the state board determines that adequate data exists to establish both of the following:

(1) The regulations are necessary to attain state and federal ambient air quality standards.

(2) The regulations are commercially and technologically feasible and necessary.

(c) A regulation shall not be adopted which requires the elimination of a product form.

(d) The state board shall not adopt regulations pursuant to subdivision (b) unless the regulations are technologically and commercially feasible, and necessary to carry out this division. The state board shall consider the effect that the regulations proposed for health benefit products will have on the efficacy of those products in killing or inactivating agents of infectious diseases such as viruses, bacteria, and fungi, and the impact the regulations will have on the availability of health benefit products to California consumers.

(e) (1) Prior to adopting regulations pursuant to this section governing health benefit products, including, but not limited to, disinfectants, the state board shall consider any recommendations received from federal, state, or local public health agencies and medical experts in the field of public health.

(2) Within 30 days after the adoption of any regulation pursuant to this section governing health benefit products, the state board shall prepare and submit to the Legislature and the Governor a report which summarizes any recommendations received pursuant to paragraph (1) and any conclusions made by the state board concerning the recommendations.

(f) A district shall adopt no regulation relating to a consumer product which is different than any regulation adopted by the state board for that purpose.

(g) A consumer product manufactured prior to each effective date specified in regulations adopted by the state board pursuant to this section that applies to that consumer product may be sold, supplied, or offered for sale for a period of three years from the

specified effective date if the date of manufacture or a representative date code is clearly displayed on the product at the point of sale. An explanation of the date code shall be filed with the state board.

(h) (1) It is the intent of the Legislature that prior to January 1, 2000, air pollution control standards affecting the formulation of aerosol adhesives and limiting emissions of reactive organic compounds resulting from the use of aerosol adhesives, be set solely by the state board to ensure uniform standards applicable on a statewide basis.

(2) The Legislature recognizes that the current state board volatile organic compound (VOC) limit for aerosol adhesives is 75 percent by weight. Effective January 1, 1997, the state board's 75 percent standard shall apply to all uses of aerosol adhesives, including consumer, industrial, and commercial uses, and any district regulations limiting the VOC content of, or emissions from, aerosol adhesives, are null and void. After that date, a district may adopt and enforce the state board's 75 percent standard for aerosol adhesives, or a subsequently adopted state board standard, in the same manner as a district regulation limiting the issuance of air contaminants.

(3) On or before July 1, 2000, the state board shall prepare a study and conduct a public hearing on the need for, and the feasibility of, establishing a more stringent standard or standards for aerosol adhesives. If the state board finds that more stringent limits for aerosol adhesives are expected to become feasible, the state board shall, at that time, adopt a standard or standards to implement more stringent VOC limits. At a minimum, the state board shall establish standards pursuant to this paragraph that constitute best available retrofit control technology, as defined in Section 40406, and that implement all plans adopted pursuant to Chapter 10 (commencing with Section 40910) of Part 3 unless the state board determines that those measures are not achievable.

(4) Notwithstanding any other provision of this section, on and after January 1, 2000, a district may adopt and enforce a regulation setting an emission standard or standards for VOC emissions for the use of aerosol adhesives that is more stringent than the standards adopted by the state board.

(i) (1) It is the intent of the Legislature that air pollution control standards affecting the formulation of aerosol paints and limiting the emissions of volatile organic compounds resulting from the use of aerosol paints be set solely by the state board to ensure uniform standards applicable on a statewide basis. A district shall not adopt or enforce any regulation regarding the volatile organic compound content of, or emissions from, aerosol paints until such time as the state board has adopted a regulation regarding those paints, and any district regulation shall not be different than the state board regulation. A district may observe and enforce a state board regulation regarding aerosol paints in the same manner as a district



regulation limiting the issuance of air contaminants. This subdivision shall not apply to any district that has adopted a rule or regulation regarding aerosol paints pursuant to an order of a federal court, until such time as the federal court has authorized the district to observe and enforce the state board regulation in lieu of the district regulation.

(2) On or before January 1, 1995, the state board shall adopt regulations requiring the maximum feasible reduction in volatile organic compounds emitted from the use of aerosol paints. The regulations shall establish final limits and require full compliance not later than December 31, 1999, and shall establish interim limits prior to that date resulting in reductions in reactive organic compounds.

(3) On or before December 31, 1998, the state board shall conduct a public hearing on the technological or commercial feasibility of achieving full compliance with the final limits by December 31, 1999. If the state board determines that a 60 percent reduction in emissions of reactive organic compounds from the use of aerosol paints is not technologically or commercially feasible by December 31, 1999, it may grant an extension of time not to exceed five years. During any such extension of time, the most stringent interim limits shall be applicable. Any regulation adopted by the state board shall include a provision authorizing the time extension and requiring a public hearing on technological or commercial feasibility consistent with this subdivision. The state board shall seek to ensure that the final limits for aerosol paints established pursuant to this subdivision do not become federally enforceable prior to the effective date established by the state board for these limits, including any extension granted under this subdivision.

(4) Reductions required for aerosol paints under this subdivision are not intended to apply to any other consumer product and the regulation of aerosol paints is not subject to subdivision (c).

